

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

HOMER EARL CHATMAN §
v. § CIVIL ACTION NO. 9:04cv262
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Homer Chatman, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Chatman was convicted of delivery of a controlled substance, receiving a sentence of 10 years in prison. He took a direct appeal and sought state habeas corpus relief before filing his federal habeas corpus petition. In his federal petition, Chatman contended that he was denied effective assistance of counsel at trial and on appeal, the State failed to disclose evidence, the search and arrest were unlawful and his conviction was based on evidence taken in the unlawful search and arrest, hearsay testimony was improperly admitted, testimony about a prior arrest destroyed the presumption of innocence, and the improper introduction of extraneous offenses.

The Magistrate Judge ordered the Respondent to answer the petition, and received a copy of the state court records. After review of the pleadings, records, and exhibits in the case, the Magistrate Judge issued a Report on January 11, 2006, recommending that the petition be denied. Chatman filed objections to the Magistrate Judge's Report on January 24, 2006; however, these objections concern the procedural history of his case, which was not at issue in his petition, and

complain that the Magistrate Judge inadvertently denominated his conviction as being for possession of a controlled substance rather than delivery of a controlled substance, but gives no indication that this caused any substantive harm in the analysis of his claims.

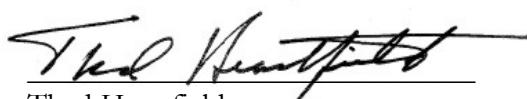
The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original petition, the answer filed by the Respondent, the state court records, the Report of the Magistrate Judge, the Petitioner's objections thereto, and all pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Petitioner's objections are without merit. It is accordingly

ORDERED that the Petitioner's objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court, with the exception that the Report is modified to reflect that Chatman's convictions were for delivery of a controlled substance rather than possession of a controlled substance. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this the 6 day of February, 2006.



Thad Heartfield
United States District Judge